



(BILLING CODE 3510-P)

DEPARTMENT OF COMMERCE

International Trade Administration

A-552-802

Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Notice of Court Decision Not in Harmony with Final Results of Administrative Review, Notice of Re-conduct of Administrative Review of Grobest & I Mei Industrial (Vietnam) Co., Ltd., and Notice of Amended Final Results of Administrative Review

SUMMARY: On September 13, 2012, the United States Court of International Trade (“CIT” or “Court”) entered final judgment following its decision in *Grobest II*,<sup>1</sup> regarding the final results of the antidumping duty administrative review of certain frozen warmwater shrimp (“shrimp”) from the Socialist Republic of Vietnam (“Vietnam”) for the period covering February 1, 2008, through January 31, 2009.<sup>2</sup> Consistent with the decision of the United States Court of Appeals for the Federal Circuit (“Federal Circuit”) in *Timken*,<sup>3</sup> as clarified by *Diamond Sawblades*,<sup>4</sup> the Department is notifying the public that the final judgment in this case is not in harmony with the Department’s *Final Results* and is amending the *Final Results*. The Department is also notifying the public that it is re-conducting the 2008/2009 antidumping duty administrative review of Grobest & I-Mei Industrial (Vietnam) Co., Ltd. (“Grobest”) pursuant to the CIT’s order.

EFFECTIVE DATE: September 23, 2012

FOR FURTHER INFORMATION CONTACT: Susan Pulongbarit, Office 9, Import

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<sup>1</sup> See *Grobest & I-Mei Industrial (Vietnam) Co. v. United States*, Slip Op. 2012-100 (July 31, 2012) (“*Grobest II*”).

<sup>2</sup> See *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 75 FR 47771 (August 9, 2010), and accompanying Issues and Decision Memorandum, as amended by *Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Amended Final Results of Antidumping Duty Administrative Review*, 75 FR 61122 (October 4, 2010) (“*Final Results*”).

<sup>3</sup> See *Timken Co., v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (“*Timken*”).

<sup>4</sup> *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (“*Diamond Sawblades*”).

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SUPPLEMENTARY INFORMATION: On August 9, 2010, the Department issued its *Final Results*. In the *Final Results*, the Department determined not to examine Grobest as a voluntary respondent and rejected Amanda Foods (Vietnam) Ltd.'s ("Amanda Foods") untimely separate rate certification ("SRC").<sup>5</sup>

In *Grobest I*, the CIT remanded the *Final Results* to the Department to, *inter alia*, reconsider its denial of Grobest's voluntary respondent request and to accept Amanda Foods' SRC.<sup>6</sup> On April 30, 2012, the Department filed its remand results, in which it determined that individually reviewing Grobest as a voluntary respondent would have been unduly burdensome and would have inhibited the timely completion of the administrative review. The Department also accepted Amanda Foods' SRC, per the Court's instruction.

On July 31, 2012, the Court sustained the Department's remand results regarding Amanda Foods' SRC, but remanded the Department's rejection of Grobest's request for voluntary respondent status and ordered the Department to conduct an individual review of Grobest as a voluntary respondent and to reconsider Grobest's revocation request in light of the results of that review.<sup>7</sup>

Following the Court's remand order in *Grobest II*, the Government moved the Court to enter final judgment so that the Department could re-conduct the administrative review of Grobest under section 751(a)(3) of the Tariff Act of 1930, as amended. The Court granted this motion and ordered the Department to re-conduct the administrative review of Grobest by individually investigating Grobest as a voluntary respondent and reconsidering Grobest's request for revocation in light of the results of that review. The Court also ordered the Department to

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<sup>5</sup> See *Final Results*.

<sup>6</sup> See *Grobest & I-Mei Industrial (Vietnam) Co. v. United States*, 36 CIT, 2d 1342 (2012) ("*Grobest I*").

<sup>7</sup> See *Grobest II*.

treat the review of Grobest as being conducted pursuant to the deadlines listed in section 751(a)(3) of the Act, calculating the deadlines beginning from the date of the entry of final judgment.

### **Timken Notice**

In its decision in *Timken*,<sup>8</sup> as clarified by *Diamond Sawblades*, the CAFC held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (“the Act”), the Department must publish a notice of a court decision that is not “in harmony” with a Department determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s September 13, 2012, judgment sustaining the Department’s remand redetermination to accept Amanda Foods’ SRC and remand to individually review Grobest constitutes a final decision of that court that is not in harmony with the Department’s *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal, or if appealed, pending a final and conclusive court decision.

### **Notice of Re-Conduct of Review of Grobest**

Pursuant to the Court’s final judgment, the Department will re-conduct the 2008/2009 administrative review of the antidumping duty order on shrimp from Vietnam on Grobest. The Department will conduct the administrative review according to the deadlines listed in Section 751(a)(3) of the Act, calculating the deadlines beginning from the date the final judgment was entered, *i.e.*, September 13, 2012. The Department will also reconsider Grobest’s request for revocation within the context of that review.

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<sup>8</sup> See *Timken*, 893 F.2d at 341.

## Amended Final Results

Because there is now a final court decision with respect to the *Final Results*, the Department amends its *Final Results*. The Department finds the following revised margin to exist:

Certain Frozen Warmwater Shrimp from Vietnam	
Exporter	Margin (Percent)
Amanda Foods (Vietnam) Ltd.	3.92%

The Department also amends the *Final Results* by announcing that it is re-conducting the administrative review of Grobest, pursuant to the Court's September 13, 2012, order.

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

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Paul Piquado  
Assistant Secretary  
for Import Administration

October 10, 2012 \_\_\_\_\_  
(date)